

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BRIAN KNIGHT,

Plaintiff,

v.

CLIMBING MAGAZINE; et al.,

Defendants.

3:11-CV-0146-LRH-RAM

ORDER

Before the court is defendant SKRAM Media, LLC's ("SKRAM") motions to dismiss. Doc. #26.¹ Plaintiff Brian Knight ("Knight") filed an opposition (Doc. #29) to which SKRAM replied (Doc. #31).

On December 23, 2010, Knight filed a complaint in state court against all defendant for libel and intentional infliction of emotional distress. Doc. #1, Exhibit A. Along with the complaint, Knight had the state court issue state court summons to serve upon all defendants. After being served with the state court summons, defendant Climbing Magazine removed this action to federal court on the basis of diversity jurisdiction. Doc. #1. After removal, Knight served defendant SKRAM with the state court summons. Thereafter, SKRAM filed the present motion to dismiss for lack of proper service of process. Doc. #26.

¹ Refers to the court's docketing number.

1 Under 28 U.S.C. § 1448, if service of process was not perfect against a defendant prior to
2 removal, the plaintiff must perfect service in the same manner as a case originally filed in federal
3 court. Service in federal court requires a federal summons. *See* FED. R. CIV. P. 4.

4 Here, SKRAM was not served with a federal summons. Thus, service of process was not
5 properly effectuated. However, the court finds that there is good cause to allow Knight to have
6 federal summons issued and serve the same upon defendant SKRAM because SKRAM has notice
7 of this action. Therefore, the court shall grant Knight thirty (30) days to effectuate proper service
8 upon defendant SKRAM in accordance with Rule 4 of the Federal Rules of Civil Procedure.
9

10 IT IS THEREFORE ORDERED that defendant's motion to dismiss (Doc. #26) is
11 GRANTED.

12 IT IS FURTHER ORDERED that plaintiff shall have thirty (30) days after entry of this
13 order to effectuate service upon defendants in accordance with the Federal Rules of Civil
14 Procedure.

15 IT IS SO ORDERED.

16 DATED 8th day of November, 2011.



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19 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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